REDACTED – FOR PUBLIC INSPECTION

Filed electronically

April 3, 2002

Mr. William Caton
Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: EX PARTE -- Application by Verizon New England for Authorization to Provide In-Region, InterLATA Services in Vermont, CC Docket No. 02-7

Dear Mr. Caton:

Attached is an ex parte letter to be filed in the above docket, which has been redacted and is for public inspection. The confidential version of this ex parte letter is being submitted with an appropriate cover letter with the understanding that the confidential material will be fully protected by the Protective Order established specifically for this docket (CC Docket No. 02-7; rel. January 17, 2002) and that the requirements for review and use of this document will be fully satisfied.

Sincerely,

Lori Wright
Associate Counsel
Federal Advocacy

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Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: EX PARTE -- Application by Verizon New England for Authorization to Provide In-Region, InterLATA Services in Vermont, CC Docket No. 02-7

Dear Mr. Caton:

On April 2, 2002, Donna Sorgi, Chris Frentrup, and I met with Dorothy Attwood, Rich Lerner, Jane Jackson, Deena Shetler, and Scott Bergmann of the Wireline Competition Bureau (Bureau) to discuss Verizon's section 271 application for Vermont. We discussed the key reasons that Verizon's switching rates in Vermont are excessive and not TELRIC-based. Specifically, we discussed Verizon's failure to include weekend and holiday usage in its computation of switching rates and Verizon's excessive switch installation factor. Below we respond to two issues regarding Verizon's Vermont switching rates that arose in our discussion with Bureau staff.

Failure to Include Weekend and Holiday Usage in Determining Switch Usage Rates

WorldCom demonstrated in an ex parte letter filed last week that the methodology Verizon employs in Vermont to determine the annual number of minutes that it will use to set its switching rate inappropriately ignores usage on weekends and holidays. See Letter from Chris Frentrup, WorldCom, to William Caton, Federal Communications Commission, filed March 25, 2002 (March 25 ex parte letter). Verizon's assertion has been that its starting point in its estimate of annual usage is "the busiest hour of a business day during a particularly busy month." See McCarren/Garzillo/Anglin Reply Declaration at ¶ 33. Verizon then posits that determining annual usage by multiplying this business-day use by 365 calendar days, rather than the 251 business days in a year, would overstate annual demand.

Verizon has not adequately addressed WorldCom's contention that weekends and holidays are improperly excluded in the development of Verizon's factors for deriving

annual usage from its busy hour usage. Furthermore, it has not responded to our proposal in our March 25 ex parte letter that it should adjust these "busy" periods to reflect average periods. As a conservative estimate, WorldCom proposed using the assumption that weekend-usage is one-half the usage on business days, which would result in multiplying average business day usage by 308 business-day equivalents rather than the 251 business days used by Verizon. This assumption was recently adopted in New York by the New York Public Service Commission. The Maine Public Utilities Commission also recently rejected Verizon's methodology of not including all minutes of use in calculating its switching rate.

To further support the reasonableness of WorldCom's approach, and to prove the understatement of annual demand that results from Verizon's approach, WorldCom offers the following facts. First, Verizon's switching cost study spreads the cost of switches over the usable life of newly installed switches, which Verizon assumes is 15 years, from 1996 to 2010. Second, Verizon assumes certain levels of growth rates in lines and minutes-per-line over those 15 years. Then, the busy hour minutes were determined by taking a net present value of the number of minutes produced in those 15 years. The growth rates that Verizon assumed and the discount factor used resulted in the minutes of use in Verizon's model to be equivalent to those in the sixth year of the 15-year time period, i.e., the minutes in 2002.[1] The busy hour minutes produced in 2002 represent the level of usage that is used both to size the switch and to act as the starting point for Verizon's computation of total annual usage.

Verizon's methodology for computing annual usage based on 251 business days results in a total of 6.32 billion minutes, which was surpassed in 1998 when Verizon had 7.03 billion DEM minutes.[2] Applying the annual growth rate in total minutes assumed by the model of ** ** percent to the 1996 DEM total of 5.43 billion minutes for the six years implied in Verizon's model yields an annual minute total of ** ** billion minutes -- more than ** ** percent above the level calculated by Verizon when it calculates annual usage without counting weekend or holiday usage. Using WorldCom's proposed assumption that usage on weekends is half of the usage that occurs on business days yields total annual minutes of 7.76 billion minutes,[3] which is still ** ** percent below the usage implied by the model's assumed growth rate. A more accurate proposal would simply use 8.25 billion minutes. Thus, WorldCom's proposal for using 308 business day equivalents is a conservative assumption.

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[1] The methodology used to derive the minutes of use is illustrated in Workpaper Part B page 90 of 92, for the switch in Burlington Vermont. That workpaper displays a discount factor of ** ** percent, an assumed growth in lines of ** ** percent, and a growth in minutes per line of ** ** percent. These two growth rates imply a growth rate of total minutes of ** ** percent. These factors are used to develop the net present value of lines and minutes for that switch. An analogous computation is apparently performed for all the switches in Vermont, although the computations are not provided. Page 89 of 92 of Workpaper Part B presents the resulting line and minutes per line data for all switches in Zone 1, and page 88 of 92 presents the summary line and minutes results for all 3 zones, as well as a statewide total. Page 87 of 92 then presents the calculation of total busy hour minutes of 2,518,111 used by Verizon in the SCIS model to size the switch.

[2] The calculation is 2,518,111 busy hour minutes times 10 business day minutes per busy hour minutes times 251 business days in a year.

[3] The calculation is 2,518,111 busy hour minutes times 10 business day minutes per busy hour minutes times 308 business day equivalents in a year.

As WorldCom has previously demonstrated, Verizon makes no adjustment for weekend usage in the factors it uses to expand busy hour usage to annual usage. As is demonstrated here, Verizon's calculations seriously understate the annual minutes that are used in its own model to set switch costs. The Commission should reject this clear violation of cost-based principles and require Verizon to revise its switch usage rates to correct this error. The reduction in usage and port would be nearly one-third.

Switch Installation Factors

To determine total switch investment, Verizon applies a switch installation factor to the material cost of a switch to add the engineered, furnished and installed ("EF&I") costs of the switch. Verizon supports its installation factor on the grounds that it is the average amount of EF&I cost in its embedded base of digital switches. WorldCom has not seen the continuing property records on which Verizon relies to derive its installation factor, so we cannot comment on whether it accurately reflects what Verizon actually spent. However, what Verizon may have spent to install its switches in Vermont is not directly relevant in a TELRIC cost study. The TELRIC methodology should reflect the forward-looking costs of an efficient competitor. There is substantial evidence on the record that other carriers have been able to engineer, furnish, and install switches at significantly lower costs than the costs Verizon claims in Vermont, and, indeed, that Verizon itself is able to perform switch installations at a lower cost in New York and Massachusetts. Verizon has not justified why an efficient carrier would spend the amount that Verizon claims to have spent in Vermont, when carriers are clearly able to spend less in other jurisdictions. Verizon has not sufficiently explained why its switch installation factors are not leading to overstated switching rates.

Any Benchmarking Must Be Carefully Applied

Neither can the Vermont switching rates be saved by "benchmarking" them to the New York rates. Using the Synthesis Model comparisons pursuant to Commission practice, Vermont's switching rates (usage and port) are expected to be about 11 % above New York's. But Vermont's switching rate is much much more than 11% higher than New York's rate.

It has been suggested nevertheless that if a comparison is made that includes transport, the Synthesis Model shows that Vermont switching and transport viewed collectively should be 50% higher than New York's, because transport is expected to be six times higher in Vermont than in New York. New York's transport rate is already extremely high. The notion that if transport in New York were $1.00 it would justify a $6.00 transport rate in Vermont is absurd. Such an outcome would be extremely unreasonable and would baldly expose the potentially irrational application of benchmarking when that practice is currently under review by the appellate court. But the larger point is that WorldCom is not challenging Vermont's transport rates, and any inclusion of transport in the benchmark analysis misstates WorldCom's argument.

The competitive checklist requires that each network element be provided "in accordance with the requirements of sections 251(c)(3) and 252(d)(1)." And section 252 (d)(1) requires that the rate for each network element "shall be based on the cost . . . of providing the . . . network element." The FCC has defined unbundled local switching as a discrete network element; Verizon has persuaded Vermont to adopt a switching rate

based on a Verizon cost study that deals discretely with switching costs (and has nothing to do with transport costs); and WorldCom has established that because of obvious errors in this cost study Vermont's switching rate is not "based on the cost of providing" that element. Any claim that errors in the switching rate are compensated for or can be offset by generous transport rates is entirely irrelevant under the statute. The Commission is not at liberty to apply benchmarking analysis in a way that squarely violates the express terms of the Act. Instead it must deal with Verizon's assertion that Vermont's switching rate is adequately supported by its cost study. And, for the reasons we have shown, that is plainly not the case.

Conclusion

Because Verizon's switching rates are inflated for the reasons described above, Verizon's section 271 application for Vermont should be denied. Please do not hesitate to contact us with any questions about this matter.

Sincerely,

Chris Frentrup
Lori Wright

cc: Dorothy Attwood, Rich Lerner, Jane Jackson, Tamara Preiss, Deena Shetler, Scott Bergmann, Julie Veach, John Stanley, Julie Saulnier, Richard Kwiatkowski